

A Confederation of the Salish,
Pend d' Oreille
and Kootenai Tribes

THE CONFEDERATED SALISH AND KOOTENAI TRIBES
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July 30, 2015

Mr. Will Meeks, Assistant Regional Director, Mountain-Prairie Region
U.S. Fish & Wildlife Service
134 Union Blvd.
Lakewood, CO 80228

Via electronic mail: Will.Meeks@fws.gov

original to follow via U.S. mail

Dear Mr. Meeks,

It has now been close to five years since the federal court rescinded our FY 2009-11 National Bison Range Complex (NBRC) Annual Funding Agreement (AFA) on procedural grounds after holding that the U.S. Fish & Wildlife Service (FWS, or agency) had not properly explained its invocation of a categorical exclusion under the National Environmental Policy Act (NEPA). Prior to that, both parties agreed that our Self-Governance partnership had been working well.

As you know, FWS and the Confederated Salish and Kootenai Tribes (CSKT, or Tribes) finished negotiating a new draft Tribal Self-Governance AFA in the spring of 2012. The agency then began preparing an Environmental Assessment (EA), for which the draft AFA is the proposed action. After numerous delays, FWS made some progress with the release of a draft EA and collection of public comment. Unfortunately, the draft EA has again languished over the last ten months. The Tribes remain concerned that FWS has not made this issue a priority and that the agency's repeated delays reflect a resistance to continuing the type of Bison Range partnership we had begun under the last AFA.

In a November 14, 2013 letter to Regional Director Noreen Walsh, CSKT expressed our dissatisfaction with these delays. This followed a personal meeting in Denver where six of our ten Tribal Council Members met with you and the Regional Director to discuss in detail the Tribes' concerns and frustrations. During a January 2014 meeting with FWS Director Dan Ashe, in which you and Regional Director Walsh had participated by speaker phone, Director Ashe expressed his continued support for: 1) a new AFA; and 2) ensuring that the agency's NEPA responsibilities were timely met.

Recently, FWS proposed changes to the negotiated AFA. You had discussed these changes with CSKT's attorney in January of this year, but first provided them to us in writing on May 28, 2015. The Tribal Council has considered the proposed changes and does not support them.

The changes proposed by FWS would be a serious regression from the Tribal Self-Governance partnership which the agency built with CSKT back in 2009-2010. The proposed changes would dilute the Tribes' participation in substantive management operations of the NBRC, and would more resemble a job placement program for Tribal staff rather than the type of substantive partnership that would meet Congressional and Departmental Self-Governance objectives.

The proposed changes are especially disheartening in light of the Tribes' specific rejection of this approach during the meeting CSKT officials had with you and Regional Director Walsh on October 31, 2013. During that meeting, you had outlined a similar arrangement to what would be created under your recent proposed changes. The Tribes made it clear that such a contracting structure would not fulfill Self-Governance objectives. We also clarified that the Tribes do not view a Self-Governance agreement at the NBRC as simply a mechanism for additional jobs, but instead look at it as a resource management partnership in which we expect to have substantive management involvement within the strictures of the National Wildlife Refuge System Administration Act, as amended.

CSKT has previously made it clear that we are amenable to discussing potential changes to the AFA as a result of the NEPA process. This is still our position. We do not believe, however, that the proposed changes originate from public comments on the draft EA. Rather, they appear to reflect agency objectives as outlined at our October 31st meeting, before the EA had been drafted, and the changes seem grounded in an agency reluctance to continue the constructive Self-Governance partnership that had been initiated under our last AFA.

Both Tribal and federal officials spent a great deal of time back in 2011-2012 to arrive at a Self-Governance agreement upon which both parties agreed. In so doing, both parties addressed aspects of the FY 2009-2011 AFA which we felt we could improve upon. The Tribes support the AFA we negotiated with FWS. It appears that FWS no longer supports that agreement, despite repeated assurances to us to the contrary.

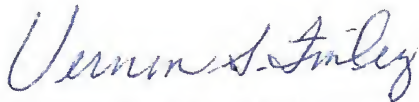
If the agency supports the negotiated AFA and is prepared to move forward in good faith with completing the NEPA process, we may be able to return to the constructive partnership we had at the NBRC upon the completion of that process. If, however, the agency either no longer supports the AFA it had agreed upon years ago, or is no longer supportive of applying Self-Governance objectives at the NBRC, then a pause in our efforts may be in order. As FWS proposes to modify it, the draft AFA would no longer serve the purposes identified in the draft EA with respect to Tribal Self-Governance objectives. The Tribes believe that an NBRC partnership must be based upon Self-Governance principles.

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Back in 2013, one of your own officials internally warned that FWS was drawing down the trust that it had built up with the Tribes under our last AFA. Since then, the Tribes' have repeatedly echoed that sentiment.

We had built a very constructive partnership with FWS at the NBRC under the last AFA, and the Tribes have been eager to continue to build upon that progress. We now need to know whether FWS is still interested in that type of partnership. If it is, I believe it would be useful for both parties to engage efforts within the agency and Department to prevent any further deterioration of the CSKT-FWS relationship.

Sincerely,

A handwritten signature in blue ink, reading "Vernon S. Finley". The signature is written in a cursive, flowing style.

Vernon S. Finley, Chairman
Tribal Council

cc: Mike Blenden
Jeff King
Sharee Freeman